IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

CRP.No. 1068 of 2007()

CMA.117/2004 of DISTRICT COURT, THRISSUR
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REVN. PETITIONER: APPELLANT/PLAINTIFF
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1. RAPPAI, S/O.CHIRAYATH VAREED,
KOZHUKULLY VILLAGE, DESOM, THRISSUR.

2. MERCY @ MARYKUTTY, W/O.CHIRAYATH
RAPPAI, KOZHUKULLY VILLAGE, DESOM, THRISSUR.

BY ADV. SRI.DILIP J. AKKARA

RESPONDENTS/RESPONDENTS: DEFENDANTS
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1. KERALA STATE FINANCIAL ENTERPRISES
(K.S.F.E.) MUSEUM ROAD, THRISSUR-20,
REP. BY ITS CHAIRMAN.

2. THE MANAGER, K.S.F.E.,
MANNUTHY BRANCH, MANNUTHY P.O., THRISSUR-68000.

3. THE SPECIAL DEPUTY TAHSILDAR (R.R.V),
K.S.F.E., CHEMBUKAVU, THRISSUR-20.

4. KERALA STATE, REP. BY DISTRICT
COLLECTOR, THRISSUR-680 003.

BY GOVERNMNET PLEADER SMT. R. BINDU.

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 06/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 1068 OF 2007

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Dated this the 6th day of December, 2007.

O R D E R

This revision petition is preferred against the judgment of the District Judge, Thrissur in CMA 117/04. The plaintiff has filed a suit which was unnumbered for the reason that the trial court directed that the Court fee has to be paid on one half of Rs.9,40,065/-. The appellate court considered the matter and held that the said direction given by the Court is correct.

2. A perusal of the plaint and the relief portion is necessary for proper adjuration of the matter. The prayer in the plaint is that the plaintiffs shall not be evicted from the plaint schedule premises without recourse to due process of law and there should not be any interference with the plaintiffs' right and enjoyment of the property and to that effect injunction has to be granted. The amount was due to the respondents from the plaintiffs and they have initiated proceedings under the Revenue Recovery Act. Instead of challenging that notice in a straight manner by a clever

drafting a prayer is incorporated as if it is an innocent prayer for an injunction to oust a person in possession of the premises. The sum and substance of the whole matter is to the effect that there shall not be any recovery and the property cannot be sold in auction under the proceedings and protection has to be granted to their possession. So, the challenge without any fear of contradiction is one against notice and further proceedings regarding sale. The learned District Judge has considered the matter in the correct perspective and has referred to the decision of this Court reported in ***Mahmathankutty v. State of Kerala (1997 (1) KLT 317)*** and reiterated it by the decision reported in ***Kunharamu v. Kunhalankutty (2003 (1) KLT 216)*** which holds the view that when the subject matter is capable of being valuation it must be valued and Court fee has to be paid in accordance with the same. Therefore, I do not find any ground to interfere with the decision rendered by the Court below and hence the CRP is dismissed.

M.N. KRISHNAN, JUDGE.

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